IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR
S.B. Civil Writ Petition No.3369/06
Shanti Lal Vs. The Addl. Civil Judge No.1 & Ors.

27.04.2007

Hon'ble Mr. Justice Mohammad Rafiq

Shri M.M. Ranjan for petitioner.

Heard learned counsel for the petitioner.

The writ petition has been filed against the order dated 6.2.06 whereby the Court allowed the one application under Order 1 Rule 10 and another application under Order 22 Rule 4 read with Section 151 CPC. The first application was allowed impleading Bhawani Shankar and Gulab Chand as defendant to the suit on the premise that they were legal heirs of defendant no.1 Laxmi Narain since deceased and

another application which was filed by the petitioner himself under Order 22 Rule 4 impleading Geeta Devi, Rajendra and Ravi Shanker as legal heirs was also allowed.

Learned counsel for the petitioner argued that since the applicants Bhawani Shanker and Gulab Chand were carrying on the business with the deceased Laxmi Narain, therefore, in view of the definition of tenant as given in Section 3 (vii)(b) of the Rajasthan Premises (Contol of Rent and Eviction) Act, 1950 they could not have been impleaded as party. By the same order, the learned trial court also set aside the ex-parte proceedings which were drawn against the defendants on 7.5.02 thereby accepting their application under Order 9 Rule 7 CPC.

Having heard the learned counsel for the petitioner, I find that in so far

as the impleadment of the applicants Bhawani Shanker and Gulab Chand was concerned, the Court has to be prima facie satisfied whether they were legal heirs of the deceased Laxmi Narain. The question whether or not they are carrying on business with him was not required to be gone into at that stage. The ex-parte proceedings were set aside on satisfaction of the Court that the notice were not properly served upon them.

I therefore do not find any error in either of the orders passed by the trial Court. The writ petition is therefore dismissed.

(Mohammad Rafiq),J.

Rs/-